

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont, 21<sup>st</sup> Floor  
San Francisco, California 94105**

**ER02025956**

**January 2, 2003**

**CALIFORNIA LOW COST AUTOMOBILE INSURANCE PROGRAM**

**Uninsured Motorists and Medical Payment Coverages**

<p><b>FIVE-DAY NOTICE ISSUED DECEMBER 19, 2002</b> <b>SUMMARY OF COMMENTS TO NOTICE AND THE DEPARTMENT'S RESPONSES</b></p>
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**COMMENT**

On December 27, 2002, the Personal Insurance Federation of California submitted a written comment, a copy of which is attached, objecting that the proposed emergency regulations are inconsistent with the statutory requirements for setting rates, that the Department has failed to demonstrate that the proposed rates are adequate to cover anticipated losses and expenses, and that the Department has exceeded its authority. Further, the commenter objects that three days is not sufficient time for participating insurers to implement the new rates, particularly when the three days are between December 27 and January 1, 2003.

**RESPONSE**

The Department has carefully considered the comments and declines to accept them for the following reasons. Senator Escutia's low cost automobile program legislation mandates an operative date of January 1, 2003 for the additional coverages. Because of the imminent effective date for compliance, there is simply no other way to establish uniform rates for these coverages than through emergency regulations. As just one example of insufficient time to follow CAARP and the low cost auto insurance programs' statutory rate-setting procedures, Insurance Code Section 11620 requires that notice of a public hearing must be published at least 60 days prior to the hearing. Thus, to timely implement the mandates of SB 1427, regulations on an emergency basis are warranted. Without emergency regulations, eligible consumers would not have access to uninsured motorists and medical payment coverages during the time it would take to effect the regular rulemaking process, contrary to legislative intent.

In determining the proposed rates, the Department followed the basic approach of consultant Donald Bashline, the same approach used by the legislature in establishing initial rates to meet the rate-setting standards of Insurance Code Sections 11629.72 and 11629.92. The Department's approach also replicates the same approach taken by CAARP's Advisory Committee in its June 21, 2002 submission of rate options for the annual 2002 rate recommendation to the Commissioner, at the Commissioner's request. An explanatory memorandum, attached to the Adoption of Regulations On An Emergency Basis Pursuant to California Government Code

Section 11346.1(b) And Finding of Emergency in the rulemaking file, demonstrates that the indicated rates proposed by the Department meet the rate-setting standards of the program.

These proposed emergency regulations are authorized by Insurance Code Sections 11620, 11624, 11629.7, 11629.72, 11629.9, 11629.92 and 11629.99.

In addition, the commenter misinterprets the emergency rulemaking process. Participating insurers will not be asked to implement the rate changes between December 27, 2002 and January 1, 2003. Insurers will be required to implement rates after they are approved by OAL, recognizing that programming time will be required. Nonetheless, rates will have been established for those desiring to purchase this coverage.